



Kenneth Rust
Director
Federal Regulatory

1300 I Street NW, Suite 400W
Washington DC 20005
Phone 202-336-7891
Fax 202-336-7922
kenneth.w.rust@verizon.com

September 14, 2000

RECEIVED

SEP 14 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Request for Limited Modification of LATA Boundaries to Provide ELCS Between Various exchanges in Bell Atlantic-West Virginia's McDowell County; CC Docket No. 96-159

Dear Ms. Salas:

Verizon – West Virginia hereby submits this request for a LATA boundary modification to provide Expanded Local Calling Service (ELCS) between various exchanges in Gilmer, Braxton, and Calhoun Counties, West Virginia.

In its order released July 15, 1997¹ ("Order"), the Commission established an ongoing process for requesting LATA boundary modifications to provide ELCS. This request is filed pursuant to the provisions contained in that order. Attached please find the support documentation required by the Commission to approve the requested modification.

Should you have any questions regarding this material, please do not hesitate to contact me at 202-336-7891.

Sincerely,

Attachment

cc: C. Keller
D. Harmon
A. Thomas

No. of Copies rec'd 011
List A B C D E

¹"In the Matter of Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations", CC Docket No. 96-159, released July 15, 1997.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

**PETITION OF VERIZON WEST VIRGINIA INC.
FOR LIMITED MODIFICATION OF LATA BOUNDARY
TO PROVIDE EXPANDED LOCAL CALLING SERVICE
BETWEEN AND AMONG CERTAIN COMMUNITIES IN
GILMER, BRAXTON, AND CALHOUN COUNTIES, WEST VIRGINIA**

Pursuant to Section 3(25) of the Communications Act of 1934, as amended,¹ Verizon West Virginia Inc. ("Verizon WV") (formerly Bell Atlantic – West Virginia, Inc.) hereby petitions the Commission for a limited modification of a LATA boundary to provide two-way, non-optional Expanded Local Calling Service ("ELCS") between and among the Glenville and Gassaway exchanges in Gilmer and Braxton Counties, and the Grantsville and Arnoldsburg exchanges in Calhoun County and portions of Gilmer County, West Virginia.² In support of its petition, Verizon WV submits the following information.

¹ See 47 U.S.C. §153(25).

² The proposal to establish cross-LATA ELCS between Gilmer and Calhoun Counties was first made by the Calhoun County Commission in a letter to the West Virginia Commission dated November 9, 1999. On December 21, 1999, the Gilmer County Commission filed a letter with the West Virginia Commission supporting the Calhoun County Commission's proposal. By order entered on February 3, 2000, the West Virginia Commission established a procedural schedule which, among other things, scheduled both a public comment hearing and an evidentiary hearing in Glenville, Gilmer County, on April 14, 2000. The proposal to establish ELCs between the Gassaway and Arnoldsburg exchanges, while not a part of the Gilmer County Commission's original request, was added to the scope of the proceeding at the recommendation of the West Virginia Commission's Consumer Advocate Division. West Virginia Order, fn.5, at 6.

(1) Type of Service

Local calling areas in West Virginia include all exchanges that are contiguous to the customer's home exchange, as well as, generally, all other exchanges whose rate centers fall within a twenty-two (airline) mile radius of the home exchange's rate center. See, Petition of Calhoun County Commission, Case No. 99-1633-T-GI, Final Order at 6 (June, 14, 2000) (hereinafter "West Virginia Order"). Customers may subscribe to one of four calling plans, with each offering a progressively larger flat rate calling area. This local calling plan, known as the "Winfield Plan," has been in effect since 1988.³ *Id.* at 6

Verizon WV proposes that the local calling area of its Glenville exchange (located in the Clarksburg LATA) be expanded to include Citizens Telecommunications Company's ("Citizens") Grantsville and Arnoldsburg exchanges (located in the Charleston LATA), and that the local calling area for

³ The requested modification of local calling areas would not affect the customers' current local calling options; instead the modification would only increase the local calling area. All four plans available to customers are *already* part of Verizon WV's existing Winfield Plan, and thus fall within the guidelines established by the Commission in its Bell Atlantic-Virginia ELCS order. ["...we will consider such a petition favorably as long as the petition does not introduce non-flat-rated service into the expanded local calling area." (emphasis in original.)] See Memorandum Opinion and Order at ¶16. In the Matter of Bell Atlantic - Virginia Petition for Limited Modification of LATA Boundary to Provide Expanded Local Calling Service, File No. NSD-L-99-47, DA 99-1728 (rel. Aug. 27, 1999). The Commission has recently restated its approval of already-existing measured rate classes of services in two recent orders granting petitions for limited LATA boundary waivers involving McDowell and Morgan Counties in West Virginia. See "Memorandum Opinion and Order," In the Matter of Bell Atlantic-West Virginia's Petition for Limited Modification of LATA Boundary to Provide Expanded Local Calling [in Morgan County, WV], File No. NSD-L-00-56 (June 5, 2000); and "Memorandum Opinion and Order," In the Matter of Bell Atlantic-West Virginia' Petition for Limited Modification of LATA Boundary to Provide Expanded Local Calling [in McDowell County, WV], File No. NSD-L-00-28 (June 5, 2000).

Verizon WV's Gassaway exchange also be expanded to include Citizens' Arnoldsburg exchange. Local calling already exists between Verizon WV's Glenville and Gassway exchanges and between Citizens' Grantsville and Arnoldsburg exchanges.

The rate centers for Citizens' Grantsville and Arnoldsburg exchanges are within 22 miles of Verizon WV's Glenville exchange. The Arnoldsburg exchange is similarly within 22 miles of the Gassaway exchange.⁴ Were it not for the LATA boundary that separates them, local calling would have already been established among these exchanges pursuant to the Commission's Winfield Plan. West Virginia Order at 8-9.

(2) Direction of Service

Two-Way

(3) Exchanges Involved

<u>Verizon WV</u>	<u>Citizens</u>
Glenville	Grantsville
Gassaway	Arnoldsburg

(4) Name of Carriers

Verizon West Virginia Inc.
Citizens Telecommunications Company

⁴ The airline mileages shown in the West Virginia Order (at pages 8-9, fn.6) for the Gassaway-to-Grantsville and the Gassaway-to-Arnoldsburg routes were inadvertently transposed. The correct airline mileage from Gassaway to Grantsville is 25 miles. The correct mileage from Gassaway to Arnoldsburg is 21 miles. See Consumer Advocate Direct at 4 (Gregg). Because the mileage between Gassaway and Arnoldsburg exceeds the 22 mile limit established in the Winfield Plan, ELCS on that route is not being sought.

(5) State Commission Approval

The West Virginia Public Service Commission issued a final order on June 14, 2000, finding that there is a community of interest between and among the exchanges involved in this petition, that the granting of the LATA boundary modification requested herein would be in the public interest, and that Verizon WV should be authorized to file this petition. A copy of that order is attached hereto as Attachment A.

(6) Number of Access Lines

Glenville	3,329
Gassaway	2,558
Grantsville	2,298
Arnoldsburg	<u>1,201</u>
TOTAL	9,386

(7) Usage Data (Messages per main station per month⁵)

Glenville to Arnoldsburg	0.11
Arnoldsburg to Glenville	0.21
Glenville to Grantsville	0.91
Grantsville to Glenville	0.73
Gassaway to Arnoldsburg	0.22
Arnoldsburg to Gassaway	0.31

⁵ Verizon WV has not furnished long distance between the cross-LATA exchanges involved in this proceeding since 1984, and, therefore, has no records or other current information concerning the monthly calling volumes between those exchanges. The Commission's Consumer Advocate Division, however, was able to obtain toll calling volume data from AT&T. Those data only reflect the traffic carried by AT&T, however, and, because they do not include toll traffic carried by other IXCs, understate actual calling volumes. West Virginia Order at 9. Moreover, as the Consumer Advocate pointed out, calls between these exchanges are made at higher toll rates, and in poor counties, such as Calhoun and Gilmer Counties, calling volumes are likely to be lower than would otherwise be the case. West Virginia Order at 10.

(8) Poll Results

A poll was not conducted since the granting of this petition for a limited LATA modification will not result in an increase in end-user rates. Petitions bearing more than 2,400 signatures, however, were submitted to the West Virginia Commission in support of the proposed local calling expansion. West Virginia Order at 10.

(9) Community Interest Statement

Education:

Gilmer and Calhoun Counties share several educational facilities. The Calhoun-Gilmer Career Center, for example, is located in Grantsville (Calhoun County), but draws roughly half its students from Gilmer County. Tr. at 14; 45-48. The Center also has articulation agreements with Glenville State College (located in Gilmer County), which enable the College's students to earn credits by enrolling in several of the Center's educational programs. *Id.* at 45-48. The absence of local calling between the two communities increases the cost of everyday communications for students, staff, as well as for the institutions themselves. The Center's director testified in this regard that more than 68 percent of the Center's toll calls were to Gilmer County. *Id.* at 77-79.

The limited local calling between Gilmer and Calhoun Counties also increases the communications costs for both counties' public school systems. One of the four elementary schools in Gilmer County (Normantown Elementary), for example, has students who reside on the other side of the LATA boundary. Tr. at 33-35. Teachers and other school personnel also often reside in one

county but work in the other, thereby increasing both their and the school systems' cost of communications. *Id.* In fact, 30 percent of the Calhoun County's school system's toll charges are attributable to calls that are made to Gilmer County. *Id.* at 77-79. See generally West Virginia order at 11.

Health Care

Gilmer and Calhoun Counties also share the area's only primary critical and long-term health care facility, the Minnie Hamilton Healthcare Center. MMHC is located in Calhoun County, but provides health care services to residents of both counties. Tr. at 65-68.

In addition, MMHC owns a smaller medical facility in Gilmer County. The number of calls between MMHC and the Gilmer County facility were estimated by MMHC's chief operations officer to be on the order of 13,000 annually, representing a cost to MMHC of approximately \$50,000. Tr. at 61-65. See generally West Virginia order at 12.

Economic Development

Gilmer and Calhoun Counties are also part of the same community for purposes of economic development. The counties work together on regional economic development initiatives (Tr. at 37-40), and even have the same industrial development representative. *Id.* at 44-45. The absence of ELCs between the two counties makes it much more costly for them to coordinate their economic development activities. See generally West Virginia Order at 12-13.

Governmental Services

Several governmental services are also provided to Gilmer and Calhoun Counties on a shared basis. The U.S. Department of Agriculture's Farm Service Agency and Natural Resource Conservation Service, for example, are both located in Gilmer County, but provide services to Calhoun County as well. Tr. at 69-71. The Women, Infants, and Children (WIC) program and the Head Start program operate in both counties, but share staffs. *Id.* at 94. The absence of local calling between the two counties substantially increases the cost of delivering these and other governmental services to the two counties' residents. See generally West Virginia Order at 14-15.

(10) Map

A map showing the exchanges involved in this proceeding is attached as Attachment B.

(11) Other Pertinent Information

The public hearing in Glenville was well attended by a number of community leaders. No opposition to the proposed cross-LATA ELCS was voiced by any party. Moreover, the fact that no interexchange carrier objected to the proposed LATA boundary waiver is probative of the minimal, if any, anti-competitive effect of the proposed boundary modification. West Virginia Order at 17.

CONCLUSION

For the reasons set forth herein, Verizon West Virginia Inc. respectfully asks that this petition for a limited LATA boundary modification be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David A. Smith". The signature is written in a cursive, flowing style with some capitalization.

Dated: September 14, 2000

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 14th day of June, 2000.

CASE NO. 99-1633-T-GI

GENERAL INVESTIGATION to determine whether a sufficient "community of interest" exists between certain telephone exchanges in Gilmer and Calhoun counties, West Virginia, to justify a limited waiver of the interLATA restrictions in order to allow expanded local calling.

COMMISSION ORDER

At the request of numerous parties, the Commission has conducted an investigation to determine whether a sufficient "community of interest" exists to justify a limited waiver of the interLATA restrictions applicable to Bell Atlantic - West Virginia, Inc. (BA-WV), thereby allowing two-way, expanded local calling service (ELCS) among the following exchanges:

- The Glenville and Gassaway exchanges served by BA-WV in Gilmer County; and
- The Grantsville and Arnoldsburg exchanges served by Citizens Telecommunications Company of West Virginia, Inc. (Citizens) in Calhoun County and portions of Gilmer County.

After reviewing the testimony and evidence, the Commission concludes that a sufficient "community of interest" exists to warrant seeking a limited waiver of the interLATA restrictions from the Federal Communications Commission (FCC).

A. Procedural Background.

On November 9, 1999, the Calhoun County Commission (Calhoun Comm.) filed a letter with the Commission requesting that the county be added to the local calling area for Gilmer County. The letter noted that the commissioners voted unanimously in support of the request.

On November 29, 1999, Cathy Bennett, a resident of southern Gilmer County, filed an email message originally submitted to Dannie Walker, supporting a limited LATA boundary waiver.

On December 2, 1999, Commission Staff (Staff) filed an Initial Joint Staff Memorandum recommending that BA-WV and Citizens should be joined as parties and required to state their positions regarding the provision of local service between the Grantsville and Arnoldsburg exchanges, served by Citizens, and the Glenville exchange, served by BA-WV. The air distance between the affected local rate centers is less than 22 miles.

On December 21, 1999, the Gilmer County Commission (Gilmer Comm.) filed a letter with the Commission, supporting the Calhoun Comm.'s request and asking that the Gilmer Comm. be made a party to this proceeding. The Gilmer Comm. was joined to this proceeding by order entered the same day.

Also on December 21, 1999, the Consumer Advocate Division of the Public Service Commission (CAD) filed a petition to intervene in this proceeding.

By order entered February 3, 2000, the Commission granted CAD's petition to intervene and established a procedural schedule which, among other things, scheduled both a public comment hearing and an evidentiary hearing in Glenville, Gilmer County, on April 14, 2000. The Commission's order also required its Executive Secretary to publish notice of the proceeding and procedural schedule once, in a newspaper of general circulation in the affected counties.

On February 23, 2000, an affidavit of publication was filed with the Commission, evidencing publication of notice on February 10, 2000, in the Calhoun Chronicle/Grantsville News.

In accordance with the Commission's February 3, 2000, order, Citizens and BA-WV filed initial comments with the Commission on March 30 and 31, 2000, respectively. Also on March 31, 2000, CAD filed the direct testimony of its director, Billy Jack Gregg. In addition, a petition supporting expanded local service, signed by 2,461 residents of Gilmer and Calhoun counties, was filed with the Commission on the same day.

On April 7, 2000, BA-WV filed reply comments with the Commission. Staff filed a memorandum supporting the recommendations in Mr. Gregg's pre-filed testimony on April 10, 2000. Also on April 10, 2000, a number of residents of the affected counties filed letters supporting expanded local service, and a petition to intervene was filed by AT&T Communications of West Virginia, Inc. (AT&T). More letters supporting expanded local

service were filed with the Commission by residents of Gilmer and Calhoun counties on April 11, 13, 17-19, 2000.

On April 14, 2000, the evidentiary hearing was held at 2:00 p.m. in Glenville, Gilmer County, as scheduled. A total of 22 individuals, representing local government and public agencies, as well as local business, attended the afternoon hearing. In addition, the following parties appeared, by counsel: Staff, by Steven Hamula; CAD, by Gene W. Lafitte, Jr.; BA-WV, by David B. Frost; and Citizens, by John Adams. The following persons testified on behalf of the parties: Gale Y. Given – BA-WV; Billy Jack Gregg – CAD; and Dannie L. Walker – Staff. The following persons offered comments at the afternoon hearing: Ron Blankenship, Delegate Brent Boggs, Rick Butler, Jim Fealy, Robert Rentschler, Robert Arnold, Larry McAllister, Steve Whited, Larry Chapman, Donald Pitts, Connie Roberts, John Gumm, Lou Flade, George Ward, Bruce Fitzwater, and Elaine Wolfe.

As scheduled, the public comment hearing was held at 6:00 p.m. on April 14, 2000, in Glenville, Gilmer County. A total of 52 individuals attended the evening hearing.¹ The following persons offered comments at the evening hearing: Hunter Armentrout, Monica White, George Reed, Sharon Yanero, Jeanne Richards, Chris Carafelli, Gary Rose, Delegate Bill Stemple, Margaret Collins, Judy Meadows, Delegate Brent Boggs, Gene Ellyson, and Angie Meadows.²

On April 20, 2000, a post-hearing exhibit was filed with the Commission by the Calhoun County Schools.

The transcript of proceedings from the April 14, 2000, hearings was filed with the Commission on April 24, 2000 (Tr.).

B. Regulatory Background.

1. FCC Guidelines Regarding LATA Boundary Waivers/Modifications.

When the United States District Court for the District of Columbia required AT&T to divest its ownership of its regional Bell operating companies (BOCs) in 1982, it divided

¹Some of the individuals who attended the afternoon hearing also attended the evening hearing.

²AT&T did not appear at either the afternoon or evening hearings.

all Bell territory in the United States into geographic areas called LATAs.³ See "Memorandum Opinion and Order," In the Matter of Petitions for Limited Modifications of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations, CC Docket No. 96-159, File Nos. NSD-LM-97-2 through NSD-LM-97-25 (Rel. July 15, 1997) (ELCS Order), ¶ 3. BOCs were permitted to provide telephone service within a LATA, both local and long distance (i.e., intraLATA service), but were not permitted to carry traffic across LATA boundaries (so-called interLATA, or cross-LATA service). InterLATA traffic was to be carried by interexchange carriers. Id. The LATAs did not cover territory served by independent telephone companies and these companies were not subject to the restrictions on cross-LATA traffic imposed by the district court. Id. ¶ 4. The district court granted waivers of the cross-LATA traffic restrictions applicable to BOCs, from time to time, in order to permit BOCs to carry interLATA traffic to preserve existing, and later to establish new, ELCS routes. Id. ¶ 5. In evaluating these waiver requests, the district court established certain evidentiary requirements that must be met in order for a waiver to be granted. Id. ¶¶ 7-8.

Passage of the Telecommunications Act of 1996 (TA96) changed this situation. Under Sections 3(25)(B) and 4(i) of the Telecommunications Act of 1934, as amended by TA96, the FCC, rather than the district court, is now vested with the ultimate authority to grant waivers or modifications of LATA boundaries. See 47 U.S.C. §§ 153(25) & 154(i). The FCC has granted LATA boundary waivers or modifications based upon a finding by a state commission that a "community of interest" exists between exchanges divided by a LATA boundary. See, e.g., ELCS Order.

In the ELCS Order, the FCC identified what evidence it would consider in support of a state commission determination that a sufficient community of interest existed between the exchanges to warrant a LATA boundary modification. The FCC noted that state commissions should document a community of interest through evidence including: (1) poll results showing subscribers were willing to pay higher monthly rates in order to be included in the expanded local area; (2) usage data showing a high level of calling between the potentially affected exchanges; (3) narrative statements explaining why the potentially affected exchanges should be considered part of one community. ELCS Order, ¶ 18. The FCC also identified evidence that it considered necessary to overcome any anticompetitive impact resulting from a LATA boundary modification. Although LATA boundary modifications would remove certain routes from the competitive interexchange market and would expand the local BOC's monopoly in the local market, the FCC concluded that, where a small number of customers or access lines are involved, the limited amount of traffic

³LATA means local access and transport area. Newton's Telecom Dictionary, 590-91 (8th Ed. 1994).

and the type of service involved would not have a significant anticompetitive effect on the interexchange market or on the BOCs' incentive to open their markets to competition. Id. Finally, the FCC indicated that LATA boundaries may be modified only for flat-rate, non-optional local service -- measured-rate, optional service generally would not be allowed. Id. ¶ 21.

The FCC expanded the types of local service that will be allowed in conjunction with a LATA boundary modification, and provided further details regarding what the FCC considers high usage and small numbers of access lines or customers. See "Memorandum Opinion and Order," In the Matter of Bell Atlantic - Virginia Petition for Limited Modification of LATA Boundary to Provide Expanded Local Calling Service, File No. NSD-L-99-47, DA 99-1728 (Rel. Aug. 27, 1999) (BA-VA ELCS Order).⁴ In the BA-VA proceeding, the FCC concluded that, contrary to its ELCS Order, it would allow BOCs to offer classes of local service other than flat-rated service across LATA boundaries, so long as the petition for a LATA boundary modification did not introduce non-flat-rated service into the expanded local calling area. In other words, historic measured-rate classes of service would be allowed. Id. ¶ 6.

The FCC reiterated its approval of historic, measured-rate classes of service recently, when it approved two petitions for limited waivers of LATA boundaries affecting McDowell and Morgan counties in West Virginia. See "Memorandum Opinion and Order," In the Matter of Bell Atlantic - West Virginia's Petition for Limited Modification of LATA Boundary to Provide Expanded Local Calling Service, File No. NSD-L-00-56 (June 5, 2000) (granting limited waiver of LATA to permit one-way calling from Berkeley Springs to Paw Paw, Morgan County); "Memorandum Opinion and Order," In the Matter of Bell Atlantic - West Virginia's Petition for Limited Modification of LATA Boundary to Provide Expanded Local Calling Service, File No. NSD-L-00-28 (June 5, 2000) (granting limited waiver of LATA to permit two-way ELCS among exchanges in McDowell County).

⁴In the BA-VA proceeding, the FCC considered a petition seeking a limited modification of the LATA boundary separating the Lebanon and Richlands exchanges in Virginia. The FCC noted, among other things: (1) that 57% of customers favored ELCS from Lebanon to Richlands (no comments regarding Richlands to Lebanon were received); (2) that the Lebanon exchange had 8,116 access lines while the Richlands exchange had 9,429 access lines; and (3) that there was an average of 1.24 calls per access line per month from Lebanon to Richlands, and 1.36 calls per access line per month from Richlands to Lebanon. BA-VA ELCS Order, ¶ 5.

2. Commission Policy Regarding Local Calling Areas.

Since 1988 the Commission has implemented a policy of expanding the local calling areas of every telephone exchange in West Virginia. Under this policy, known as the "Winfield Plan," the local calling area of every exchange generally includes all exchanges whose rate centers fall within a twenty-two mile radius of that exchange's rate center, as well as contiguous exchanges. See "Commission Order," C&P Telephone Co. of WV, Case No. 87-542-T-T, et al. (Oct. 28, 1988). Although there are a number of exchanges in West Virginia which do not enjoy the full benefit of ELCS under the "Winfield Plan" because of the proximity of these exchanges to LATA boundaries, Gilmer County is one of the few counties in West Virginia in which a LATA boundary divides the county. As a result, the LATA boundaries have prevented BA-WV from providing telecommunications service between the county seat, located in the Clarksburg LATA, and areas of Gilmer County located in the Charleston LATA and served by Citizens.

DISCUSSION

After reviewing all the evidence and testimony produced in the course of this investigation, as well as relevant FCC orders, and as more fully set forth below, the Commission concludes that a community of interest exists between and among the following exchanges:

- The Glenville and Gassaway exchanges served by BA-WV in Gilmer County and portions of Braxton County; and
- The Grantsville and Arnoldsburg exchanges served by Citizens in Calhoun County and portions of Gilmer County.⁵

The community of interest among these exchanges supports a limited modification of the applicable LATA boundary to allow BA-WV to provide cross-LATA telecommunications service among the affected exchanges. Accordingly, upon entry of this Order, the Commission authorizes BA-WV to file a petition requesting that the FCC grant a limited

⁵ELCS between BA-WV's Gassaway exchange and Citizens' Arnoldsburg exchange was added to the scope of this proceeding, at CAD's suggestion, because the distance between the two exchanges rate centers is 21 miles and, but for the LATA boundary, ELCS would be appropriate under the Commission's Winfield Plan. Gregg Dir., at 4. Both BA-WV and Citizens expressed either support, or lack of opposition, to including the Gassaway exchange to the LATA relief being considered. BA-WV Reply Comments, at 1-2; Tr. 110 (Adams).

modification of the Clarksburg/Charleston LATA boundary separating portions of Gilmer County from Calhoun County and portions of Gilmer County, in order to permit BA-WV to provide cross-LATA telecommunications services between the above exchanges. If a limited waiver of the LATA boundary is granted by the FCC, two-way ELCS would be established among the following local routes: Grantsville/Glenville; Glenville/Arnoldsburg; and Gassaway/Arnoldsburg.

A. County Demographics.

Gilmer and Calhoun counties are among the least populated, poorest counties in West Virginia. The counties are located in the center of the state; Gilmer County is located to the east of Calhoun County.

1. Gilmer County.

Gilmer County has a population of 7,130, centered around the county seat of Glenville. The county's population declined 6.5% between 1990 and 1998. BA-WV Exh. No. 1, at 4 (BA-WV Init. Comments). The average per capita income in Gilmer County is \$15,329 (1997), well below the state average of \$18,124 (1997). BA-WV Init. Comments, at 4-5. CAD Exh. No. 1, at 2 (Gregg Dir. at __); see also "Economic Summary," at 13 (WV Bureau of Employment Programs, April 2000). In February, 2000, unemployment stood at 10.9%, more than 50% above the state average (6.6%) and more than double the national average (4.1%). Gregg Dir. at 2; WVBEP Summary, at 11. Nearly a third of Gilmer County's residents are below the poverty level, ranking it 50th among West Virginia's 55 counties. BA-WV Init. Comments, at 5.

Infrastructure is limited in Gilmer County. There are no controlled access highways or railroads. Gregg Dir. at 2. No airport is located in the county. County Profiles, at 46. Services are also very limited. For example, there are no hospitals in Gilmer County, and only one doctor and one dentist. Id. Only one newspaper, and no radio or television stations, serve the county. Bus service is non-existent. Id. There is one library in the county but Glenville State College is located in Glenville.

Glenville State College is one of the principal employers in Gilmer County. Gregg Dir., at 2. The other major employers are: the Gilmer County Board of Education; Spenco Manufacturing, Inc. and Flying W. Plastics. A new federal prison is under construction. Id.

2. Calhoun County.

As poor and underdeveloped as Gilmer County is, Calhoun County's situation is worse. Some 7,940 people reside in Calhoun County. Per capita income in February 2000

was \$12,376 -- nearly 30% below the state average -- and unemployment stood at 22.5%; more than three times the state average and more than five times the national rate. BA-WV Init. Comments, at 5; see also WVBEP Summary, at 11. As with Gilmer County, nearly a third of Calhoun County's residents are below the poverty level, ranking it 51st out of 55 counties in West Virginia. BA-WV Init. Comments, at 5.

Like Gilmer County, there is very little infrastructure in Calhoun County. There are no controlled access highways or railroads in the county. Gregg Dir., at 3. No airport is located in Calhoun County. County Profiles, at 30. Services likewise are limited. There is one hospital -- the Minnie Hamilton Healthcare Center -- in Calhoun County, with 43 beds. Five doctors and two dentists serve the county. Id. As with Gilmer County, only one newspaper, and no radio or television stations, serve Calhoun County. Bus service similarly is non-existent. Id. One library serves the county.

The principal employers in Calhoun County are: the Calhoun County Board of Education; the Minnie Hamilton Healthcare Center; Facemire Foods, Inc.; and Houchin Construction, Ltd. Gregg Dir., at 3.

B. Local Calling Areas in Gilmer and Calhoun Counties.

The majority of Gilmer County is served by BA-WV's Glenville exchange, which is located in the Clarksburg LATA. Gregg Dir., at 2. The southeastern portion of the county is served by BA-WV's Gassaway exchange, most of which lies in Braxton County and which is likewise located in the Clarksburg LATA. Id.; see also BA-WV Exh. No. 2, at 1-2 (BA-WV Reply Comments). The Stumptown and Lockney areas in southwestern Gilmer County, however, are served by Citizens' Arnoldsburg exchange, which is located in the Charleston LATA. Id.; see also Gregg Dir., Exh. BJG-1.

Two Citizens' exchanges serve Calhoun County; both are located in the Charleston LATA. The Grantsville exchange is located in the northern half of the county while the Arnoldsburg exchange serves the southern half of Calhoun County and a small portion of Gilmer County. Gregg Dir., at 3; see also Gregg Dir., Exh. BJG-1.

With the exception of Gassaway to Grantsville, the rate centers for the local exchanges served by Citizens in Calhoun County are within 22 miles of BA-WV's Gilmer County exchanges.⁶ But for the boundary between the Charleston LATA and the Clarksburg

⁶The mileage from the affected local exchange rate centers in the Clarksburg LATA to the rate centers in the Charleston LATA are as follows:

LATA, local calling between the counties could have been provided since 1988, pursuant to the Commission's Winfield Plan.

C. A Community of Interest Exists Among the Potentially Affected Exchanges.

For the reasons set forth below, the Commission concludes that a community of interest exists among the potentially affected exchanges.

1. Calling Rates Among the Exchanges Suggest a Community of Interest Exists.

In the BA-VA ELCS Order, the FCC noted that the average number of messages between the potentially affected exchanges were 1.24 and 1.36 messages per access line per month. BA-VA ELCS Order, ¶ 6. Based on records obtained from AT&T, the average number of messages per access line per month among the exchanges serving Gilmer and Calhoun counties, during the period October 1999 to January 2000, was as follows:

<u>Routes</u>	<u>Avg. Messages/Access Line</u>
Glenville (BA-WV) to Arnoldsburg (Citizens)	0.11
Glenville (BA-WV) to Grantsville (Citizens)	0.91
Gassaway (BA-WV) to Arnoldsburg (Citizens)	0.22
Arnoldsburg (Citizens) to Glenville (BA-WV)	0.21
Grantsville (Citizens) to Glenville (BA-WV)	0.73
Arnoldsburg (Citizens) to Gassaway (BA-WV)	0.31

CAD Exh. No. 1-A (Gregg Supp.). These rates are low when compared with the rates considered by the FCC in the BA-VA ELCS Order.

However, as CAD pointed out, such usage data was derived from only one of several interexchange carriers serving Gilmer and Calhoun counties, i.e., AT&T. Gregg Dir., at 5. The average usage data understates calling volumes because traffic carried by other interexchange carriers is not included. Id.; see also Tr. 96-101 (Gregg). Moreover, the low

<u>Exchange</u>	<u>Miles to:</u>	<u>Grantsville</u>	<u>Arnoldsburg</u>
Glenville		15 miles	19 miles
Gassaway		21 miles	25 miles

Gregg Dir., at 4.

number of calls reflects the fact that calls among these exchanges are charged as higher, toll calls. Gregg Dir., at 5. In poor counties, the average message units per access line figures might be lower than otherwise because of high toll rates. Tr. 96-101 (Gregg). The Commission concludes that CAD's assumptions are reasonable.⁷

2. There is Overwhelming Support for a LATA Boundary Modification Among the Residents of Gilmer and Calhoun Counties.

Neither BA-WV nor Citizens indicated that the proposed LATA boundary modification would require any increase in its customers' monthly phone bills. Accordingly, residents of the affected exchanges were not polled regarding their support for the proposed boundary modification. However, a number of petitions and letters supporting the proposed LATA boundary modification were filed with the Commission. The Commission has not attempted to count the total number of signatures collected, but a review shows in excess of 2,400 signatures were collected. There was no opposition to the proposed LATA boundary modification.

3. Narrative Evidence Further Establishes That A Community of Interest Exists Among the Potentially Affected Exchanges.

Narrative statements during the April 14, 2000, hearings in Glenville strongly supports the Commission's conclusion that a community of interest exists among the potentially affected exchanges.

As an initial matter, transportation routes link the two counties together. Tr. 103-04 (Gregg). As CAD noted, major transportation routes in both Gilmer and Calhoun counties follow the course of the Little Kanawha River, which flows east to west in each county. In addition, combined U.S. Route 33/119 bisects each county from the southwest to northeast. Gregg Dir., at 2-3. U.S. Route 33/119 links Arnoldsburg, Stumptown and Glenville. In

⁷The Commission notes that the same conclusions applied with respect to the low level of calling between residents of the Berkeley Springs and Paw Paw exchanges in Morgan County. The average calling rate from Berkeley Springs to Paw Paw was only 0.22 messages per access line per month. However, the average rate from Paw Paw to Berkeley Springs, which was a local call, was 16.84 messages per access line per month. See "Commission Order," General Investigation re: Community of Interest in McDowell and Morgan Counties, Case No. 98-1531-T-GI (Nov. 30, 1999), at 12. The FCC apparently did not disagree with the Commission's conclusion that the calling rates were understated, since it approved the LATA boundary relief sought with respect to the Morgan County exchanges.

addition, State Route 5 links Grantsville with Glenville. Tr. 103-04 (Gregg). A highway map indicates that the distances between these points are approximately 18 miles and 15 miles, respectively.

The two counties also share educational facilities. For example, the counties share the Calhoun-Gilmer Career Center which is located in Grantsville. Tr. 14 (Blankenship). The Center's enrollment is split roughly 50/50 between Calhoun and Gilmer counties and consists of approximately 210 high school students and 40 adults. Id. 45-48 (Rentschler). Communication between the Center's director and the principals of the one high school serving each county is routine. Id. at 17-18 (Blankenship). The Center has articulation agreements with Glenville State College, located in Glenville, which provide students with college credits for attending the Center's criminal justice, business and environmental technology programs. Id. at 48-50 (Rentschler). According to its director, the Center communicates with Glenville State officials on a weekly basis. Id. at 45-48. The Center also routinely communicates with public service agencies, such as Human Resources, located across the LATA boundary. In addition, the Center's students have work experiences in both Gilmer and Calhoun counties. Id. The Center's director testified that the LATA boundary impedes communications among its students, its staff, other educational institutions and businesses. Id. at 48-50; see also Tr. 29-33 (Butler).

The LATA boundary separating Gilmer and Calhoun counties also affects the operations of the public school systems in each county. According to numerous school officials, the county school boards and local schools regularly communicate with one another by phone. Tr. at 14-15 (Blankenship); 35-35 (Butler). Many teachers in each county's school system reside in the opposite county. Id. 15 (Blankenship); 35-36 (Butler). Substitute bus drivers for one county's schools reside in the opposite county. Id. 74-77 (Pitts). In addition, one of the four elementary schools in Gilmer County, Normantown Elementary, has students from the Lockney and Stumptown areas which lie on the other side of the LATA boundary. Id. 33-35 (Butler).

The close relationship among the public schools and the Calhoun-Gilmer Career Center, and the adverse effects of the LATA boundary, were quantified by several witnesses. For example, the finance director for Calhoun County's schools testified that 30% of the county schools' bills are attributable to calls to Gilmer County. Tr. 77-79 (Roberts). In addition, calls from the Career Center to Gilmer County account for over 68% of the Center's toll calls. Id. The charges associated with these calls amount to approximately 35% of the Center's total supply budget, exclusive of maintenance. Id.

Testimony also established that Calhoun County has a significant stake in Glenville State College. Glenville State's operations are also adversely affected by the LATA boundary. For example, the president of the Calhoun County Commission testified that 102

students enrolled at Glenville State are from Calhoun County. The college's only toll-free number is to its admissions office, and this office can not transfer calls to any other office at the college. Tr. 56-58. Students living in Calhoun County must make toll calls to reach virtually every office at the college. Similarly, Calhoun students living on campus must make toll calls to home. Id. Moreover, Glenville State communicates with local high schools in order to recruit students and calls to recruits in Calhoun County are subject to toll charges. Id. 40-42 (Fealy).

Gilmer and Calhoun counties also share health care facilities. The Minnie Hamilton Healthcare Center is the only primary critical and long-term health care facility in the two counties. Tr. 65-68 (Whited). Minnie Hamilton is located in Grantsville. Id. 23-25 (Del. Boggs). However, the hospital acquired Gilmer Primary Care, located in Glenville, in January 1999. Id. 51; see also Tr. 61-65 (Whited). Minnie Hamilton's chief operations officer testified that Gilmer Primary Care's number of patients treated daily has increased from an average of 8 per day to 30-35 patients per day. This number is growing. Id. Calls between the hospital and Gilmer Primary Care are charged toll rates. In addition, the computerized data system used for reporting treatment, required by the federal and state grants the hospital receives, links the facilities in both counties via telephone line.

Mr. Whited testified that, annualizing the hospital's February 2000 monthly phone bill produced an annual figure of 12,924 calls between the hospital in Grantsville and the primary care office in Glenville, at a total cost of \$50,586.12. Tr. 61-65 & Public Exh. No. 4. The majority of these calls is from Glenville to Grantsville; 21% of toll calls from Minnie Hamilton go to Glenville while 68% of toll calls from the primary care office in Glenville go to Minnie Hamilton. Tr. 61-65. The monthly phone bill amounts to 33% of Minnie Hamilton's monthly expenses. Id. Finally, Mr. Whited testified that Minnie Hamilton uses Cable & Wireless as its interexchange carrier, while AT&T provides toll service for the Glenville office. The best rates Minnie Hamilton could find still amount to approximately \$50,000 per year. Tr. 65-68. In light of the fact that 72% of patients treated by Minnie Hamilton are Medicare/Medicaid recipients, the LATA boundary places a financial burden on the hospital's operations and make it impossible to provide additional services. Id. 61-65.

Furthermore, the Gilmer County school system is forming a partnership with Minnie Hamilton to establish a school-based health center. Tr. 29-33 (Butler). Staff at the center will need to be able to communicate with the hospital, and vice versa, and such communications will be subject to toll charges. Id.

Testimony at the April 14, 2000, hearing also established that the two counties are part of the same community for purposes of economic development. The executive director of Gilmer County's economic development association testified that the two counties work together on regional economic development initiatives. Tr. 37-40 (Fealy). Moreover, the

state development office places Gilmer and Calhoun counties in the same region. The two counties also have the same industrial development representative. Id. 44-45. Mr. Fealy testified that the population of each county is so small that doing business requires a regional marketplace. Id. 43-44. This regional approach was echoed by Delegate Boggs and Larry McAllister, president of the Calhoun County Commission. Id. 19-21 (Boggs); 59-60 (McAllister).

The construction of a new federal prison in Gilmer County exemplifies the bond between the counties with respect to economic development. The executive director of Gilmer County's economic development association testified that approximately 700 construction workers and staff will be hired to build the new prison. Up to 200 applicants for these positions are residents of Calhoun County. Tr. 37-40 (Fealy). Once the prison is complete, it will employ approximately 400 full-time staff. According to Mr. Fealy, many of those employees are expected to come from Calhoun County because Gilmer County simply does not have the population necessary to fill all those positions. Id.

The bond between Gilmer and Calhoun counties is evident with respect to private business as well. For example, Robert Arnold testified that 20% of the business received by his company's H & R Block franchise in Glenville comes from residents of Calhoun County. Tr. 51-54 (Arnold). Those customers, however, account for 50% of the H & R Block franchise's toll calls. Id.; see also Public Exh. No. 1. Similarly, the assistant vice president of United Bank in Glenville testified that many of the bank's customers live in Calhoun county or in the Stumptown/Lockney areas of Gilmer County. Tr. 80-82 (Gumm). Since calls to the bank are subject to toll charges, LATA boundary relief would assist customers who are reluctant to call the bank to seek financial planning advice and assistance. Id. Likewise, the manager of Calhoun Banks in Glenville testified that telecommunications between the bank's three branches in Arnoldsburg, Elizabeth (Wirt County) and Glenville, and the main office in Grantsville, are vital to operations. Id. 89-90 (Fitzwater). The bank has a high speed data line connecting all branches to the main office and the line between the Glenville branch and the main office presents a major problem with respect to expenses. In addition, many bank employees who reside in Calhoun County work in the bank's Glenville branch. Id.

In addition, the director of curriculum and instruction for Calhoun County schools testified that recent state legislation requires all county school systems to develop work-based activities for all students in grades 9-12. Tr. 86-89 (Ward). This legislation affects approximately 450-500 students in each county. According to Mr. Ward, the local businesses that participate in providing these activities are not all located in Calhoun County; many are located in Gilmer County. Each county's schools will need to collaborate because of the scarce physical and human resources in each county. Id.

The two counties also share some of the same social services. For example, the U.S. Department of Agriculture's Farm Service Agency (FSA) and Natural Resource Conservation Service (NRCS) are both centered in Glenville. Each agency provides agricultural services to both Gilmer and Calhoun county residents. The FSA has 736 persons residing in Calhoun County registered. The Natural Resource Conservation Service has 450 residents of Calhoun County registered. Tr. 69-71 (Chapman); see also Public Exh. Nos. 2 & 3. In addition, Elaine Wolfe, a staff person for the Women, Infants and Children (WIC) program, testified that the program serves approximately 300 participants in each county. Tr. 91-93 (Wolfe). Staff is shared among WIC offices in each county. Moreover, due to terrain, participants in one county often reside in the other county. Id. Ms. Wolfe testified that the same situation exists for all service agencies. For example, Head Start exists in both counties and shares staff. Id. 94.⁸

In addition, government services are often shared by the two counties. Delegate Bill Stemple testified that, several years ago, Calhoun County could not afford to hire deputies. During this time, the Gilmer County sheriff's office worked with Calhoun County to assist with law enforcement. Tr. 134-137 (Del. Stemple). Moreover, as far as the three state delegates are concerned, they consider both counties as their constituencies, regardless of the actual boundaries of their districts. Id.; see also Tr. 28 (Del. Boggs).

Testimony at the April 14, 2000, hearing demonstrated that the two counties are also joined by blood. Ms. Wolfe testified that families in the two counties tend to be large but closely connected and that familial ties extend across the county line. Tr. 94 (Wolfe). Sharon Yanero testified that, while she lives in Grantsville, she has two children in Gilmer County that she calls three to four times a day. Approximately \$60-100 on Ms. Yanero's

⁸There was testimony that the LATA boundary not only adversely impacts the social and economic lives of residents of Gilmer and Calhoun counties, but adversely affects the health of residents as well. The fact that calls to health care and social agencies are often subject to toll charges discourages communications regarding non-emergency health concerns. Ms. Wolfe noted that residents of Gilmer and Calhoun county have significant health problems that could be reduced if access to health care services was improved by removal of the LATA boundary. For example, residents of Gilmer County have triple the national cancer rate; the rate for residents of Calhoun County is worse. Tr. 95 (Wolfe). In addition, residents of the two counties have high rates of diabetes and cardiovascular disease. Id. Residents of the Stumptown and Lockney areas who call a doctor or drugstore in Glenville are charged toll rates. Id. 141 (Ellyson). Most physicians used by Gilmer residents have their practice in Grantsville and calls to schedule appointments or consult are subject to toll charges. Id. 138-139 (Meadows).

monthly long distance phone bill is attributable to calls to her children in Gilmer County. Id. 132 (Yanero). Similarly, Margaret Collins testified that she lives in Gilmer County but her daughter lives and works in Calhoun County. Ms. Collins and her daughter speak regularly by phone. Id. 137-138 (Collins). Likewise, Judy Meadows testified that she was born in Calhoun County but has lived in Gilmer County for 38 years and works there. Her daughter teaches at the Career Center in Grantsville and calls between the two are subject to toll charges. Id. 138-139 (Meadows).

4. There Would be Few, If Any, Anticompetitive Effects Associated With the Proposed LATA Boundary Modification.

a. Few Access Lines Would be Involved.

In its orders dealing with petitions for LATA boundary modifications, the FCC has indicated that anticompetitive effects associated with such modifications are minimized when fewer access lines are involved. ELCS Order, ¶ 18; BA-VA ELCS Order, ¶¶ 5, 7. In the BA-VA proceeding, the potentially affected exchanges had a total of 17,545 access lines. BA-VA ELCS Order, ¶ 5 n. 22. Roughly 8,000 fewer access lines are involved in the proposed LATA boundary modification for Gilmer and Calhoun counties. The total number of access lines in the potentially affected exchanges is as follows:

<u>Exchange</u>	<u>Avg. No. of Access Lines</u>	<u>% of State Lines</u>
Glenville (BA-WV)	3,329	0.35%
Gassaway (BA-WV)	2,558	0.27%
Grantsville (Citizens)	2,298	0.24%
Arnoldsburg (Citizens)	1,201 ⁹	0.12%
TOTAL	9,386	0.98%

Gregg Dir., at 4. The total number of access lines affected if two-way, ELCS between Gilmer and Calhoun counties is allowed is only 9,386. This represents only 0.98% of the 962,208 access lines in West Virginia. "Summary West Virginia Telephone Exchange Carriers," West Virginia Telecommunications Association (Jan. 1, 1998), at <http://www.wvta.org>. In fact, the number of affected access lines is fewer still, since Citizens is not subject to the interLATA restrictions applicable to BOCs and could,

⁹Of this total, 92 access lines are located in the portion of Gilmer County served by Citizens. Citizens Exh. No. 1, at 4 (Citizens Init. Comments).

conceivably, provide unilateral local calling to the Glenville and Gassaway exchanges.¹⁰ Only 5,887 access lines are in BA-WV's two exchanges. This represents approximately 0.61% of all lines in the State. Id.

b. BA-WV Will Not Introduce Any New Local Service Plans as Part of the LATA Boundary Modification.

The FCC views petitions to modify LATA boundaries that include measured rate plans favorably, so long as those plans are not being introduced as part of the boundary modification. BA-VA ELCS Order, ¶ 6. That is clearly the case here.

Granting the LATA boundary relief sought in this proceeding will not result in any new, optional local calling plans being offered. Tr. 101-102 (Gregg). Customers will have exactly the same business and calling plans available to them if the FCC grants a limited waiver of the LATA boundary as they have currently. The only change that will occur will be in the scope of local calling. Id.; see also Tr. 105-109 (Walker).

Furthermore, BA-WV will offer to customers in the Glenville and Gassaway exchanges the same local service plans it provides to its customers throughout the State. Tr. 124-127 (Given); BA-WV Reply Comments Attach B. These plans allow customers to choose differently priced plans that vary with the amount of measured local service. BA-WV's "Thrifty Caller" plan, for example, costs \$5 per month¹¹ and customers pay measured

¹⁰In its comments, Citizens noted that, in its experience, providing unilateral local calling, namely from its Paw Paw exchange in Morgan County/Clarksburg LATA to Bell Atlantic's Berkeley Springs exchange in Morgan County/Hagerstown, MD LATA, has proven to be an inadequate and imperfect solution. Citizens Init. Comments, at 3. This was recognized in Case No. 98-1531-T-GI, in which a waiver of the LATA boundary in Morgan County was sought, and granted by the FCC, in order to eliminate a similar unilateral calling arrangement. See "Memorandum Opinion and Order," In the Matter of Bell Atlantic - West Virginia's Petition for Limited Modification of LATA Boundary to Provide Expanded Local Calling Service, File No. NSD-L-00-56 (June 5, 2000) (granting limited waiver of LATA to permit one-way calling from Berkeley Springs to Paw Paw). Moreover, as Citizens pointed out, unilateral calling does not help the residents of Glenville and does not fully solve the problems faced by local residents and businesses.

¹¹The actual rate is \$6/month. However, after the federal universal service credit is applied, the net rate would be \$5/month for Thrifty Caller service. See "Commission Order," General Investigation re: Appropriate Use of Federal Universal Service Support, Case No. 99-1620-T-GI (Feb. 8, 2000).

rates for every local call. These measured rates vary with distance and peak or off-peak calling times. BA-WV Init. Comments, at 3-4 & Attach. B. BA-WV's "Frequent Caller" plan, on the other hand, costs \$24 per month and customers do not pay any measured rates for local calls within the ELCS area. Id. BA-WV's calling plans have been included in its Commission-approved tariff for years. See BA-WV Local Exchange Service Tariff, P.S.C. W. Va. No. 202, § B.2.C. These same calling plans were approved by the FCC in connection with petitions for limited modifications of LATA boundaries for McDowell County and Morgan County, West Virginia.

c. No Interexchange Carriers Objected to the Proposed LATA Boundary Modification.

Other than AT&T, no interexchange carrier participated in this proceeding. AT&T filed its petition on April 10, 2000. The deadline for filing petitions to intervene was March 20, 2000. AT&T does not indicate why it failed to timely file its petition.¹² AT&T neither supports nor opposes the proposed LATA boundary waiver but wants to make the Commission aware that lowering the access charges BA-WV imposes on interexchange carriers for intrastate toll calls will reduce the rates charged by those carriers, thereby reducing the long distance bills of West Virginia residents making short-haul interLATA toll calls.

The Commission is aware of the potential effect access charge reductions may have on rates for interLATA toll calls in West Virginia, as well as the fact that interLATA toll traffic may increase as a result of any rate reductions. The rate impact of such reductions or increased toll traffic are purely speculative at this point. Moreover, the Commission believes that toll calls, even at reduced rates, are still likely to be substantially more expensive than local calls.

In any event, the Commission agrees with CAD's observation that, while there is no doubt there will be revenue losses for toll carriers if a limited waiver of the LATA boundary restrictions is granted, the impact should be de minimis and more than offset by the benefits to residents of Gilmer and Calhoun counties. See Gregg Dir., at 7.

¹²The Commission concludes that AT&T's petition to intervene should be denied because: (1) AT&T provided no grounds to justify its failure to timely file a petition, and (2) AT&T failed to appear at the April 14, 2000, hearings. This is something of a formality, however, since the Commission has taken AT&T's comments into account.

5. Conclusion.

For all the foregoing reasons, the Commission concludes that a sufficient community of interest exists among the potentially affected exchanges to warrant seeking limited relief from cross-LATA restrictions applicable to BA-WV. While economic considerations are not part of the FCC's "community of interest" standard, the Commission believes that such considerations are relevant to its conclusion that a community of interest exists among the affected exchanges. A limited modification of the LATA boundary removes an impediment to economic development in each county. The LATA boundary also has adversely affected the lives, the health and public safety of many citizens of Gilmer and Calhoun counties.

BA-WV will be authorized to file a petition requesting that the FCC grant a limited modification of the following LATA boundaries: the Clarksburg LATA - Charleston LATA boundary between the majority of Gilmer County, on the one hand, and Calhoun County and the Stumptown and Lockney areas of Gilmer County, on the other. Such boundary modification would allow full, two-way local calling between the following routes: Glenville/Grantsville; Glenville/Arnoldsburg; and Gassaway/Arnoldsburg.

FINDINGS OF FACT

1. On November 9, 1999, the Calhoun County Commission (Calhoun Comm.) filed a letter with the Commission requesting that the county be added to the local calling area for Gilmer County. The letter noted that the commissioners voted unanimously in support of the request.

2. By order entered February 3, 2000, the Commission initiated this general investigation to determine whether a sufficient "community of interest" exists to justify a limited waiver of the interLATA restrictions applicable to BA-WV, thereby allowing two-way, ELCS among the following exchanges:

- The Glenville and Gassaway exchanges served by BA-WV in Gilmer County; and
- The Grantsville and Arnoldsburg exchanges served by Citizens in Calhoun County and portions of Gilmer County.

3. The Commission's February 3, 2000, order also established a procedural schedule which, among other things, scheduled both a public comment hearing and an evidentiary hearing in Glenville, Gilmer County, on April 14, 2000.

4. BA-WV, Citizens, CAD and Staff filed comments or pre-filed testimony and evidence with the Commission. In addition, numerous letters or petitions expressing support for limited cross-LATA relief were filed with the Commission. A petition supporting expanded local service, signed by 2,461 residents of Gilmer and Calhoun counties, was filed with the Commission on March 31, 2000.

5. Evidentiary and public comment hearings were held, as scheduled, on April 14, 2000, in Glenville, Gilmer County.

6. Under Sections 3(25)(B) and 4(i) of the Telecommunications Act of 1934, as amended by TA96, the FCC is vested with the ultimate authority to grant waivers and/or modifications of LATA boundaries. See 47 U.S.C. §§ 153(25) & 154(i).

7. The FCC has previously granted LATA boundary waivers or modifications based upon a finding by a state commission that a "community of interest" exists between exchanges divided by a LATA boundary. See ELCS Order.

8. In the ELCS Order, the FCC identified what evidence it would consider in support of a state commission determination that a sufficient community of interest existed between the exchanges to warrant a LATA boundary modification. ELCS Order, ¶ 18. The FCC also identified evidence that it considered necessary to overcome any anticompetitive impact resulting from a LATA boundary modification. Id. ¶ 21.

9. The FCC clarified the ELCS Order to expand the types of local service that will be allowed in conjunction with the modification, and provided further details regarding what the FCC considers high usage and small numbers of access lines or customers. See BA-VA ELCS Order.

10. Since 1988 the Commission has implemented a policy, known as the "Winfield Plan," of expanding the local calling areas of every telephone exchange in West Virginia to generally include all exchanges whose rate centers fall within a twenty-two mile radius of that exchange's rate center, as well as contiguous exchanges.

11. BA-WV serves two local exchanges in Gilmer County: the Glenville exchange and the Gassaway exchange. Most of the Gassaway exchange is in Braxton County. Both exchanges are located in the Clarksburg LATA.

12. Citizens serves two local exchanges in Calhoun County and portions of Gilmer County: the Grantsville exchange and the Arnoldsburg exchange. Both exchanges are located in the Charleston LATA.

13. The rate centers for all but one of the local exchanges in Gilmer and Calhoun counties are within 22 miles of one another. The rate center of the Gassaway exchange is more than 22 miles from the rate center of the Grantsville exchange.

14. Gilmer County is one of the few counties in West Virginia in which a LATA boundary divides the county. As a result, the LATA boundary has prevented BA-WV from providing telecommunications between the county seat, located in the Clarksburg LATA, and areas of Gilmer County located in the Charleston LATA and served by Citizens.

15. In addition, the LATA boundary has prevented two-way ELCS between the two exchanges in Calhoun County, served by Citizens, and the two exchanges in Gilmer County, served by BA-WV.

16. Based on records obtained from AT&T, the average number of messages per access line per month among the exchanges serving Gilmer and Calhoun counties, during the period October 1999 to January 2000, was as follows:

<u>Routes</u>	<u>Avg. Messages/Access Line</u>
Glenville (BA-WV) to Arnoldsburg (Citizens)	0.11
Glenville (BA-WV) to Grantsville (Citizens)	0.91
Gassaway (BA-WV) to Arnoldsburg (Citizens)	0.22
Arnoldsburg (Citizens) to Glenville (BA-WV)	0.21
Grantsville (Citizens) to Glenville (BA-WV)	0.73
Arnoldsburg (Citizens) to Gassaway (BA-WV)	0.31

CAD Exh. No. 1-A (Gregg Supp.).

17. Narrative statements during the April 14, 2000, hearing in Glenville strongly supported the conclusion that a community of interest exists among the potentially affected exchanges.

18. The anticompetitive effects associated with modifying LATA boundaries to allow BOCs to provide local service across those boundaries are minimized when fewer access lines are involved. ELCS Order, ¶ 18; BA-VA ELCS Order, ¶¶ 5, 7.

19. The total number of access lines in the potentially affected exchanges is as follows:

<u>Exchange</u>	<u>Avg. No. of Access Lines</u>	<u>% of State Lines</u>
Glenville (BA-WV)	3,329	0.35%
Gassaway (BA-WV)	2,558	0.27%
Grantsville (Citizens)	2,298	0.24%
Arnoldsburg (Citizens)	1,201	0.12%
TOTAL	9,386	0.98%

Gregg Dir., at 4. The total number of access lines affected if two-way, ELCS between Gilmer and Calhoun counties is allowed is only 9,386. This represents only 0.98% of the 962,208 access lines in West Virginia. "Summary West Virginia Telephone Exchange Carriers," West Virginia Telecommunications Association (Jan. 1, 1998), at <http://www.wvta.org>.

20. The number of affected access lines is fewer still, since Citizens is not subject to the interLATA restrictions applicable to BOCs and could, conceivably, provide unilateral local calling to the Glenville and Gassaway exchanges. Only 5,887 access lines are in BA-WV's two exchanges. This represents approximately 0.61% of all lines in the State. Id.

21. BA-WV will offer to customers in the potentially affected exchanges the same local service plans it provides to its customers throughout the State. These plans allow customers to choose to differently priced plans that vary with the amount of measured local service.

22. BA-WV's local service plans have been part of the utility's Commission-approved tariff for years. See BA-WV Local Exchange Service Tariff, P.S.C. W.Va. No. 202, § B.2.C. These same calling plans were approved by the FCC in connection with petitions for limited modifications of LATA boundaries for McDowell County and Morgan County, West Virginia. See "Memorandum Opinion and Order," In the Matter of Bell Atlantic - West Virginia's Petition for Limited Modification of LATA Boundary to Provide Expanded Local Calling Service, File No. NSD-L-00-56 (June 5, 2000); "Memorandum Opinion and Order," In the Matter of Bell Atlantic - West Virginia's Petition for Limited Modification of LATA Boundary to Provide Expanded Local Calling Service, File No. NSD-L-00-28 (June 5, 2000).

23. No interexchange carriers objected to the proposed LATA boundary modification.

24. The Commission adopts, as if fully restated, all recitals of fact set forth herein.

CONCLUSIONS OF LAW

1. A community of interest exists between and among the following exchanges to support a limited modification of the applicable LATA boundary:

- The Glenville and Gassaway exchanges served by BA-WV in Gilmer County; and
- The Grantsville and Arnoldsburg exchanges served by Citizens in Calhoun County and portions of Gilmer County

2. There would be few, if any, anticompetitive effects associated with a limited LATA boundary modification for the above-cited exchanges.

3. While economic considerations are not part of the FCC's "community of interest" standard, the Commission believes that such considerations are relevant to its conclusion that a community of interest exists among the affected exchanges. A limited modification of the LATA boundary removes an impediment to economic development in each county. The LATA boundary also has adversely affected the lives, the health and public safety of many citizens of Gilmer and Calhoun counties.

4. BA-WV will be authorized to file a petition requesting that the FCC grant a limited modification of the following LATA boundaries: the Clarksburg LATA - Charleston LATA boundary between the majority of Gilmer County, on the one hand, and Calhoun County and the Stumptown and Lockney areas of Gilmer County, on the other. Such boundary modification would allow full, two-way local calling between the following routes: Glenville/Grantsville; Glenville/Arnoldsburg; and Gassaway;Arnoldsburg.

5. The Commission adopts, as if fully restated, all legal conclusions set forth herein.

ORDER


IT IS, THEREFORE, ORDERED that, upon entry of this order, Bell Atlantic - West Virginia, Inc., is authorized to file a petition with the Federal Communications Commission, requesting that the FCC grant a limited modification of the following LATA boundaries: the Clarksburg LATA - Charleston LATA boundary between the majority of Gilmer County, on the one hand, and Calhoun County and the Stumptown and Lockney areas of Gilmer County, on the other. Such boundary modification would allow full, two-way local calling between

the following routes: Glenville/Grantsville; Glenville/Arnoldsburg; and Gassaway/Arnoldsburg.

IT IS FURTHER ORDERED that, upon entry of this order, this proceeding shall be removed from the Commission's active docket of cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

A True Copy, Teste:

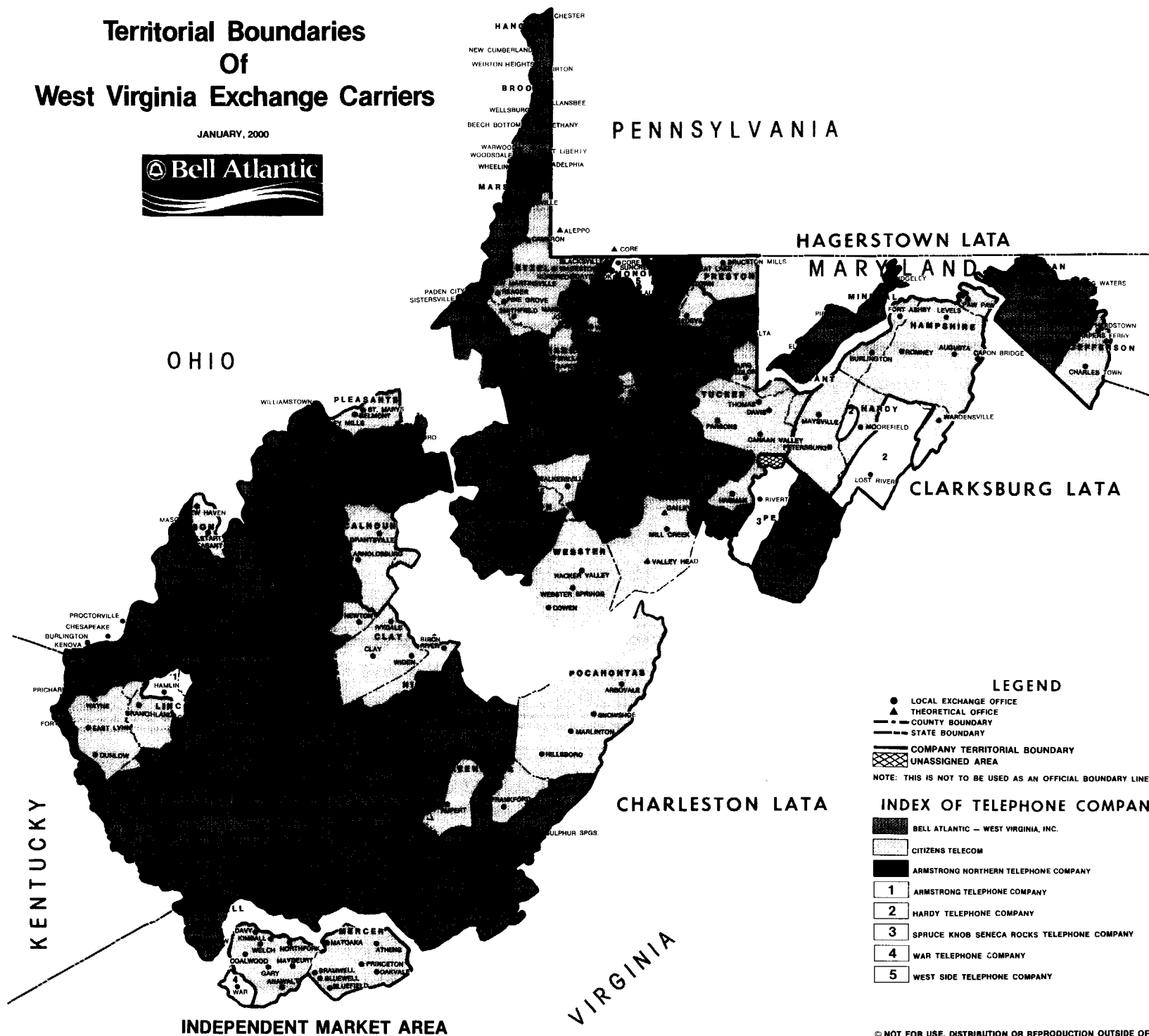


Sandra Squire
Executive Secretary

ARC

PWP/pwp/lfg
991633ca.wpd

JANUARY, 2000



Bell Atlantic - West Virginia, Inc.
1500 MacCorkle Avenue, S.E.
Charleston, WV 25314

NOT FOR USE, DISTRIBUTION OR REPRODUCTION OUTSIDE OF BELL ATLANTIC WITHOUT PERMISSION OF EXCHANGE CARRIER RELATION OF BELL ATLANTIC — WEST VIRGINIA, INC. COPIES MAY BE OBTAINED BY CONTACTING EXCHANGE CARRIER RELATIONS, ROOM 519, 1500 MacCORKLE AVE., CHARLESTON, WEST VIRGINIA (304-344-7249).